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**Board of Vocational Nursing
and Psychiatric Technicians**

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9 **BEFORE THE**
10 **BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

Case No. VN-2006-2288

13 TRACY ELAINE STEADMAN a.k.a
14 TRACY E. JENKINS
620 Melba Road, Apt. 29
Encinitas, CA 92024

A C C U S A T I O N

15 Vocational Nurse License No. VN 188155

16 Respondent.

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18 Complainant alleges:

19 **PARTIES**

20 1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this
21 Accusation solely in her official capacity as the Executive Officer of the Board of Vocational
22 Nursing and Psychiatric Technicians, Department of Consumer Affairs.
23 2. On or about May 3, 1999, the Board of Vocational Nursing and Psychiatric
24 Technicians issued Vocational Nurse License Number VN 188155 to Tracy Elaine Steadman
25 a.k.a. Tracy E. Jenkins (Respondent). The Vocational Nurse License was in full force and effect
26 at all times relevant to the charges brought herein and will expire on September 30, 2008, unless
27 renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Vocational Nursing and Psychiatric Technicians (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

4. Section 2875 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline the holder of a vocational nurse license for any reason provided in Article 3 (commencing with section 2875) of the Vocational Nursing Practice Act.

5. Section 118, subdivision (b) of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Under section 2892.1 of the Code, the Board may renew an expired license at any time within four years after the expiration.

6. Section 2878.5 of the Code states:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Vocational Nursing Practice Act] it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist or podiatrist administer to himself or herself or furnish or administer to another, any controlled substance as defined in Division 10 of the Health and Safety Code, or any dangerous drug as defined in Section 4022.

(b) Use any controlled substance as defined in Division 10 of the Health and Safety Code, or any dangerous drug as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public, or to the extent that the use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

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1 7. Section 492 of the Code states:

2 Notwithstanding any other provision of law, successful completion of any
3 diversion program under the Penal Code, or successful completion of an alcohol
4 and drug problem assessment program under Article 5 (commencing with section
5 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit
6 any agency established under Division 2 ([Healing Arts] commencing with
7 Section 500) of this code, or any initiative act referred to in that division, from
8 taking disciplinary action against a licensee or from denying a license for
9 professional misconduct, notwithstanding that evidence of that misconduct may
10 be recorded in a record pertaining to an arrest.

11 This section shall not be construed to apply to any drug diversion program
12 operated by any agency established under Division 2 (commencing with Section
13 500) of this code, or any initiative act referred to in that division.

14 8. Section 125.3 of the Code provides, in pertinent part, that the Board may
15 request the administrative law judge to direct a licensee found to have committed a violation or
16 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
17 and enforcement of the case.

18 9. California Code of Regulations, title 16, section 2521, states:

19 For the purposes of denial, suspension, or revocation of a license pursuant
20 to Division 1.5 (commencing with Section 475) of the Business and Professions
21 Code, a crime or act shall be considered to be substantially related to the
22 qualifications, functions or duties of a licensed vocational nurse if to a substantial
23 degree it evidences present or potential unfitness of a licensed vocational nurse to
24 perform the functions authorized by his license in a manner consistent with the
25 public health, safety, or welfare. Such crimes or acts shall include but not be
26 limited to those involving the following:

27 (a) Procuring a license by fraud, misrepresentation, or mistake.

28 (b) A conviction of practicing medicine without a license in violation of
Chapter 5 of Division 2 of the Business and Professions Code.

(c) Violating or attempting to violate, directly or indirectly, or assisting in
or abetting the violation of, or conspiring to violate any provision or term of
Chapter 6.5, Division 2 of the Business and Professions Code.

(d) Aiding or assisting, or agreeing to aid or assist any person or persons,
whether a licensed physician or not, in the performance of or arranging for a
violation of any of the provisions of Article 13, Chapter 5, Division 2 of the
Business and Professions Code.

(e) Conviction of a crime involving fiscal dishonesty.

(f) Any crime or act involving the sale, gift, administration, or furnishing
of "narcotics or dangerous drugs or dangerous devices" as defined in Section 4022
of the Business and Professions Code.

10. California Code of Regulations, Title 16, section 2522.5 states:

(a) When considering the suspension or revocation of a license on the ground that a licensed vocational nurse has been convicted of a crime, the Board, in evaluating the rehabilitation of such person and his eligibility for a license will consider the following criteria:

- (1) Nature and severity of the act(s) or offense(s).
- (2) Total criminal record.
- (3) The time that has elapsed since commission of the act(s) or offense(s).
- (4) Whether the licensee has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the licensee.
- (5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.
- (6) Evidence, if any, of rehabilitation submitted by the licensee.

11. Section 4022 of the Code states

"Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in humans or animals, and includes the following:

(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without prescription," "Rx only," or words of similar import.

(b) Any device that bears the statement: "Caution: federal law restricts this device to sale by or on the order of a _____," "Rx only," or words of similar import, the blank to be filled in with the designation of the practitioner licensed to use or order use of the device.

(c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006.

DRUG

12. Methamphetamine is a Schedule II controlled substance as designated by Health and Safety Code section 11055, subdivision (d)(2), and is a dangerous drug pursuant to Business and Professions Code section 4022.

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1 **BACKGROUND**

2 13. On or about June 3, 2007, officers from the Oceanside Police Department
3 made a traffic stop on a vehicle containing a suspect-narcotics registrant with a Fourth
4 Amendment Waiver status who was in violation of a restraining order. Respondent was a
5 passenger in the vehicle. During an interview with Respondent, the officer observed that she was
6 noticeably nervous; her hands were shaking and she made no sense when she spoke. Respondent
7 allowed the officer to search her purse, which was in her lap along with a black wallet and a
8 laptop computer. While her purse was being searched, Respondent exited the vehicle. Because
9 Respondent refused to obey the officer's command to keep her hand out of her pocket, she was
10 handcuffed. During a search of Respondent's wallet, the officer found a small zip-lock baggie
11 containing what was later confirmed to be approximately one gram of methamphetamine.
12 Respondent was arrested and following a *Miranda* admonishment, provided the following
13 information to the officer: Respondent admitted to smoking "crystal" (methamphetamine) about
14 two times a month; the last time she had used crystal was the night prior to her arrest;
15 Respondent admitted to using crystal for about one year.

16 14. As a result of the arrest detailed above, on or about June 6, 2007, in a
17 proceeding entitled *People v. Tracy E. Jenkins*, in San Diego Superior Court (North County
18 Division), case number CN229736, Respondent pled guilty to possession of methamphetamine in
19 violation of Health and Safety Code section 11377, subdivision (a), a misdemeanor pursuant to
20 Penal Code section 17, subdivision (b)(4). The court ordered judgment deferred for 18 months
21 and diversion was granted pursuant to Penal Code section 1000. Respondent was ordered to
22 enroll in and complete a substance abuse treatment program, abstain from the use of all alcohol
23 and illegal drugs, and remain law abiding. At a December 14, 2007, Substance Abuse
24 Assessment review hearing, Respondent failed to appear under the terms of the Penal Code
25 section 1000 diversion program. A warrant was issued for Respondent's arrest and it remains
26 outstanding.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct - Possession of a Controlled Substance on June 3, 2007)**

3 15. Respondent has subjected her license to disciplinary action under section
4 2878.5, subdivision (a) of the Code in that she possessed methamphetamine, as detailed in
5 paragraph 13, above. As part of Respondent's June 6, 2007, plea agreement, Respondent stated
6 "I now plead Guilty and admit the charges, convictions, and violations of probation described in
7 paragraph #1, above, because I am guilty. I admit that on the dates charged, I possessed a
8 controlled substance."

9 **SECOND CAUSE FOR DISCIPLINE**

10 **(Unprofessional Conduct - Use of a Controlled Substance)**

11 16. Respondent has subjected her license to disciplinary action under section
12 2878.5, subdivision (b) of the Code in that Respondent admitted she used methamphetamine on
13 or about June 2, 2007, and admitted to the arresting police officers that she ingested
14 methamphetamine about two times per month for the year prior to her June 3, 2007 arrest, as
15 detailed in paragraph 13, above.

16 **FACTORS IN AGGRAVATION**

17 17. To determine the degree of discipline, if any, to be imposed on
18 Respondent, Complainant alleges that on or about June 25, 1997, in a proceeding entitled *People*
19 *v. Tracy E. Jenkins*, in San Diego Superior Court (North County Division), case number
20 CN060042, Respondent was convicted of violating Vehicle Code section 23103 pursuant to
21 Vehicle Code section 23103.5. Respondent entered into a plea agreement which allowed her to
22 reduce the charge of violating Vehicle Code section 23152, subdivision (a), driving under the
23 influence of drugs, to the lesser charge of violating Vehicle Code section 23103, reckless driving.
24 The plea agreement also included a deferred entry of judgment for being under the influence of a
25 controlled substance (methamphetamine), in violation of Health and Safety Code section 11550,
26 subdivision (a). The plea and deferred judgment was contingent upon Respondent's enrollment
27 and completion of a drug treatment program and payment of \$1,185 in fines and fees.

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18. The circumstances that led to Respondent's court proceedings, above, were that on or about April 1, 1997, two officers from the Oceanside Police Department made a traffic stop on Respondent while she was driving a vehicle with an expired registration. Respondent's driver's license was also suspended. The officer interviewed Respondent and observed that she exhibited objective symptoms of being under the influence of methamphetamine: dilated pupils, eyelid tremors, rapid speech, elevated pulse, and the inability to remain still. Respondent was arrested for driving under the influence of a controlled substance (Veh. Code, § 23152, subd. (a)), under the influence of a controlled substance (Health & Safe. Code, § 11550, subd. (a)), driving with an expired driver's license (Veh. Code, § 12500, subd. (a)), and expired vehicle registration (Veh. Code, § 4000, subd. (a)).

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians issue a decision:

1. Revoking or suspending Vocational Nurse License Number VN 188155, issued to Tracy Elaine Steadman;
2. Ordering Tracy Elaine Steadman a.k.a. Tracy E. Jenkins to pay the Board of Vocational Nursing and Psychiatric Technicians the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: April 8, 2008

Mrs. B. L. Jones

TERESA BELLO-JONES, J.D., M.S.N., R.N.
Executive Officer
Board of Vocational Nursing and Psychiatric Technicians
Department of Consumer Affairs
State of California
Complainant